

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

May 5, 2009

3:30 P.M. SCHEDULED SESSION

3:33 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland and Chairman Myron Lowery. Barbara Swearengen Ware was absent.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Rev. Willie Moore, Jr. from Mt. Pisgah Baptist Church.. Councilwoman Halbert presented Rev. Moore with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of April 21, 2009 with the following motion:

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison and Strickland
Lowery did not cast a vote
Ware was absent

APPROVED, as amended. Item #36 was dropped from the Minutes

3. **RESOLUTION ADOPTING THE UNIVERSITY DISTRICT COMPREHENSIVE PLAN.
(HELD FROM 4/21)**

Held until July 7, 2009

5. **ORDINANCE TO ADOPT THE UNIVERSITY DISTRICT OVERLAY (UDO) AS A
ZONING TEXT AMENDMENT, UP FOR T H I R D AND F I N A L READING. (HELD
FROM 4/21)**

Ordinance No. 5301
Case No. ZTA 08-002

Held until July 7, 2009

6. **ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE, UP FOR
T H I R D AND F I N A L READING. (HELD FROM 4/21)**

Ordinance No. 5302
Case No. Z08-104

Held until July 7, 2009

1. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF
HOLMES ROAD FOR PASTOR ANDREW JACKSON.**

MOTION: Collins
SECOND: Strickland

APPROVED. unanimous voice vote

2. **RESOLUTION COMMENDING THE CENTRAL HIGH SCHOOL'S LADY
WARRIORS BASKETBALL TEAM FOR AN OUTSTANDING 2008-2009 SEASON.**

MOTION: Ford
SECOND: Hedgepeth

APPROVED. unanimous voice vote

4. **RESOLUTION APPROVING A WAIVER FOR A PAY DAY LOAN LOCATED ON
SUMMER AVENUE.**

Held until May 19, 2009

CONSENT AGENDA – Items 7 - 22 may be acted upon by one motion: SEE PAGE 2873 FOR ROLL CALL

7. **ORDINANCE TO AMEND CHAPTER 33, CODE OF ORDINANCES, SO AS TO INCREASE THE VOLUMETRIC SEWER FEE FROM 95.8 CENTS PER 1000 GALLONS TO 105.3 CENTS PER 1000 GALLONS, UP FOR F I R S T READING.**

Ordinance No. 5312

APPROVED, on First reading

8. **ORDINANCE TO APPROPRIATE THE PROCEEDS OF THE TAX LEVY ON THE ASSESSED VALUES ON ALL PROPERTIES OF EVERY SPECIES WITHIN THE CITY LIMITS FOR GENERAL PURPOSES FOR THE FISCAL YEAR JULY 1, 2009, THROUGH JUNE 30, 2010, UP FOR F I R S T READING.**

Ordinance No. 5313

APPROVED, on First reading

9. **ORDINANCE FIXING THE TAX RATE OF THE CITY OF MEMPHIS FOR FISCAL YEAR 2010, UP FOR F I R S T READING.**

Ordinance No. 5314

APPROVED, on First reading

10. **ORDINANCE REZONING THE SOUTHWEST CORNER OF RAINES ROAD AND GRACELAND STREET, CONTAINING 0.112 ACRE IN THE SINGLE FAMILY RESIDENTIAL (R-S10) DISTRICT, UP FOR F I R S T READING.**

Ordinance No. 5315

Case No. Z 09-101

APPROVED, on First reading

11. **ORDINANCE AMENDING THE CURRENT PENSION ORDINANCE BY ESTABLISHING A RETURN MULTIPLE FOR GENERAL EMPLOYEES WITH 16 TO 20 YEARS OF SERVICE WHO ELECT TO RECEIVE A LUMP SUM PAYMENT UPON RETIREMENT OR TERMINATION. THIS AMENDMENT ALSO REVISES THE DEFINITION OF A CHILD AND A SPOUSE AS DEFINED PER THE ORDINANCE AND CLARIFIES THE LANGUAGE RELATIVE TO PROVIDING HEALTHCARE FOR PERSONS RECEIVING LUMP SUM PAYMENTS, UP FOR S E C O N D READING.**

Ordinance No. 5303

APPROVED, on Second reading

12. **ORDINANCE TO PROHIBIT SCHOOL BUS DRIVERS FROM USING MOBILE TELEPHONES WHILE TRANSPORTING CHILDREN, UP FOR S E C O N D READING.**

Ordinance No. 5304

APPROVED, on Second reading

13. **ORDINANCE TO REQUIRE MOTOR VEHICLES TO GIVE THREE FEET CLEARANCE WHEN PASSING BICYCLES, UP FOR S E C O N D READING.**

Ordinance No. 5305

APPROVED, on Second reading

14. **ORDINANCE TO ESTABLISH A PENALTY FOR NON-EMERGENCY 911 CALLS, UP FOR S E C O N D READING.**

Ordinance No. 5306

APPROVED, on Second reading

15. **ORDINANCE TO ESTABLISH A PENALTY FOR TRANSPORTING MINORS IN THE BED OF TRUCKS, UP FOR S E C O N D READING.**

Ordinance No. 5307

APPROVED, on Second reading

16. **ORDINANCE TO AMEND THE FINANCIAL RESPONSIBILITY ORDINANCE TO MIRROR THE STATE FINANCIAL RESPONSIBILITY LAW, UP FOR S E C O N D READING.**

Ordinance No. 5308

APPROVED, on Second reading

17. **ORDINANCE TO PROHIBIT THE USE OF OFF-HIGHWAY MOTOR VEHICLES ON HIGHWAYS, UP FOR S E C O N D READING.**

APPROVED, on Second reading

18. **ORDINANCE TO ESTABLISH AN OPEN CONTAINER LAW, UP FOR S E C O N D READING.**

Ordinance No. 5310

APPROVED, on Second reading

19. **ORDINANCE TO ESTABLISH A PENALTY FOR OPERATING LOW SPEED VEHICLES ON CITY STREETS, UP FOR S E C O N D READING.**

Ordinance No. 5311

APPROVED, on Second reading

20. **RESOLUTION APPROVING FINAL PLAT OF CORDOVA STATION P.D., PHASE 21.**

Case No. PD 97-367

Resolution approves the final plat located on the south side of Macon Road, 762.99 feet east of North Germantown Parkway.

City Engineer recommends approval

APPROVED

21. **RESOLUTION APPROVING FINAL PLAT OF GRACE ST. LUKES SCHOOL P.D.**

Case No. PD 08-319

Contract No. CR-5138

Resolution approves the final plat located on the east side of LeMaster Street, between Linden and Peabody Avenue. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

22. **NOTATION FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASE WAS HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

A. CASE NO. PD 09-305 – TOURNAMENT CENTER P.D., 3RD AMENDMENT

Public Hearing Set for May 19, 2009

ROLL CALL CONSENT ITEMS

MOTION: Ford

SECOND: Morrison

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and Chairman Lowery
Ware was absent

APPROVED

MLGW FISCAL CONSENT – Items 23 - 29 may be acted upon by one motion:

23. **RESOLUTION AWARDDING CONTRACT NO. 11248, PROPERTY AND BOILER INSURANCE, TO FM GLOBAL IN THE FUNDED AMOUNT OF \$1,080,894.00.**

APPROVED

24. **RESOLUTION APPROVING CHANGE NO. 7 TO CONTRACT NO. 11016, DRUG AND ALCOHOL COLLECTION PROVIDER, WITH TRUE TEST COLLECTION IN THE FUNDED AMOUNT OF \$57,936.00. (THIS CHANGE RENEWS THE CURRENT CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, MAY 6, 2009 THROUGH MAY 5, 2010. THIS CHANGE DOES NOT REFLECT A RATE INCREASE FROM THE PREVIOUS YEAR; HOWEVER, THE NUMBER OF EMPLOYEES TESTED INCREASED THE CONTRACT AMOUNT BY 106.91% DUE TO THE CHANGE IN MLGW HR POLICY NO. 23-09, POST ALCOHOL AND DRUG TESTING).**

APPROVED

25. **RESOLUTION AWARDDING CONTRACT FOR ONE VERTICAL TURBINE PUMP AND MOTOR TO LAYNE CHRISTENSEN COMPANY IN THE AMOUNT OF \$99,600.00.**

APPROVED

26. **RESOLUTION AWARDDING 12-MONTH CONTRACT FOR FLUOROSILIC ACID TO PENCCO, INC. IN THE AMOUNT OF \$790,272.00.**

APPROVED

27. **RESOLUTION AWARDDING 36-MONTH CONTRACT FOR CONCRETE TO MEMPHIS READY MIX IN THE AMOUNT OF \$3,694,513.00.**

APPROVED

28. **RESOLUTION APPROVING THE EMPLOYMENT OF WISEMAN BRAY, PLLC, ON AN AS-NEEDED BASIS AT AGREED-UPON HOURLY RATES.**

APPROVED

29. **RESOLUTION APPROVING THE EMPLOYMENT OF BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC, ON AN AS-NEEDED BASIS AT AGREED-UPON HOURLY RATES.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Morrison
SECOND: Collins
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland
and Chairman Lowery
Brown and Halbert did not cast a vote
Ware was absent

APPROVED

30. **APPOINTMENTS**

Memphis & Shelby County Industrial Development Board

Appointment

WALLACE JENKINS

Reappointment

CLIFFORD STOCKTON, SR. (JOINT APPOINTMENT)

Memphis Youth Guidance Commission

Appointment

CLARENCE DAVIS, JR., MD

Prevailing Wage Commission

Appointment

ROBERT L. CAMPBELL

MOTION: Flinn
SECOND: Ford
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland and Chairman Lowery
Ware was absent

APPROVED

31. **RESOLUTION APPROPRIATING \$436,700.00 IN CONTRACT CONSTRUCTION FOR FIRE STATION REPAIR, CIP PROJECT NUMBER FS02001, AS PART OF THE FY 2009 CAPITAL IMPROVEMENT PROGRAM, FUNDED BY G.O. BONDS GENERAL.**

MOTION: Hedgepeth
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and Chairman Lowery
Ware was absent

APPROVED

32. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING A PREVIOUS ALLOCATION OF \$1,400,000.00 FUNDED BY G.O. BONDS GENERAL WITHIN HCD-STRATEGIC COMMUNITY INVESTMENT FUNDS, PROJECT NUMBER CD01022 FROM HCD-STRATEGIC COMMUNITY INVESTMENT FUNDS TO VSC ST. JUDE SHOP RELOCATION, PROJECT NUMBER GS01019 FOR ACQUISITION RELATED EXPENSES.**

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and Chairman Lowery
Flinn did not cast a vote
Ware was absent

APPROVED

33. **RESOLUTION APPROPRIATING \$440,000.00 IN CONSTRUCTION FUNDS. RESOLUTION ALSO TRANSFERS AND APPROPRIATES \$200,000.00 FROM CONSTRUCTION TO FURNITURE FIXTURES AND EQUIPMENT, FUNDED BY G.O. BONDS GENERAL FOR COMMUNITY CENTER IMPROVEMENTS.**

Council did include Community Center Improvements, CIP Project Number PK01024 as part of the FY 2009 Capital Improvement Program.

MOTION: Strickland
SECOND: Hedgepeth
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and Chairman Lowery
Flinn did not cast a vote
Ware was absent

APPROVED

34. **RESOLUTION APPROPRIATING \$2,500,000.00 IN CONSTRUCTION FUNDS, FUNDED BY G.O. BONDS GENERAL FOR THE ZOO HIPPO EXHIBIT.**

Council did include Zoo Hippo Exhibit, CIP Project Number PK09004 as part of the FY 2009 Capital Improvement Program. The City of Memphis has entered into an agreement with the Memphis Zoological Society which provides for procedures for the use and payment of the current and future capital appropriation.

MOTION: Strickland

SECOND: Hedgepeth

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and Chairman Lowery
Ware was absent

APPROVED

35. **RESOLUTION APPROPRIATING \$6,199,527.00 FOR ORGANIZED CRIME UNIT DRUG FUNDS FOR FISCAL YEAR 2010.**

MOTION: Hedgepeth

SECOND: Strickland

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and Chairman Lowery
Ware was absent

APPROVED

36. **RESOLUTION ADJUSTING ADDITIONAL TREATMENT CHARGE FOR CITY OF MEMPHIS SEWER FEES.**

Director of Public Works recommends approval

MOTION: Boyd

SECOND: Collins

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Strickland and Chairman Lowery
Morrison did not cast a vote
Ware was absent

APPROVED

37. **RESOLUTION APPROPRIATING \$64,458.00 FUNDED BY G.O. BONDS (STORM WATER) IN NORTH WATKINS OVER CYPRESS CREEK, PROJECT NUMBER ST03112 FOR A CONSTRUCTION CONTRACT WITH FULLEN DOCK AND WAREHOUSE.**

MOTION: Boyd
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison and Chairman Lowery
Strickland did not cast a vote
Ware was absent

APPROVED

38. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF FOUR MILLION NINE HUNDRED THIRTY ONE THOUSAND NINE HUNDRED FIFTY EIGHT DOLLARS (\$4,931,958.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE STIMULUS YOUTH FUND. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins
SECOND: Ford
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland and Chairman Lowery
Conrad did not cast a vote
Ware was absent

APPROVED

39. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF THREE MILLION ONE HUNDRED SEVENTY EIGHT THOUSAND NINE HUNDRED TWENTY FOUR DOLLARS (\$3,178,924.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE STIMULUS DISLOCATED WORKER FUND. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins
SECOND: Hedgepeth
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland and Chairman Lowery
Conrad did not cast a vote
Ware was absent

APPROVED

40. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF ONE MILLION SIX HUNDRED FIFTY NINE THOUSAND SEVEN HUNDRED EIGHTY DOLLARS (\$1,659,780.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE STIMULUS**

ADULT FUND. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.

MOTION: Collins
SECOND: Ford
AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Morrison, Strickland and
Chairman Lowery
Conrad, Fullilove and Hedgepeth did not cast a vote
Ware was absent

APPROVED

41. **RESOLUTION RECOGNIZING SHELBY COUNTY GOVERNMENT'S AUTHORIZATION TO SELL TO THE CITY OF MEMPHIS THE COUNTY'S INTEREST IN THE PYRAMID, ACCEPTING THE CITY OF MEMPHIS FUNDING OF THE HEALTH DEPARTMENT, AND CANCELING ANY OBLIGATIONS OF THE COUNTY RELATED TO THE MID-SOUTH COLISEUM; AND HEREBY AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THIS PURPOSE WITH SHELBY COUNTY GOVERNMENT.**

(Councilman Flinn made a motion to have this item delayed. After further discussion of this item, Councilman Flinn withdrew his motion. (Councilman Strickland then made a motion to have this item delayed for 2 weeks).

(Special Item #1) – Councilman Strickland's motion:

MOTION: Strickland
SECOND: Conrad
AYES: Conrad, Flinn, Hedgepeth and Strickland
NAYS: Boyd, Brown, Collins, Ford, Fullilove, Halbert, Morrison and Chairman Lowery
Ware was absent

(Special item #1 – FAILED)

MAIN MOTION: Halbert
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Ford, Fullilove, Halbert, Hedgepeth, Morrison and
Chairman Lowery
NAYS: Conrad, Flinn and Strickland
Ware was absent

APPROVED, as amended

(Councilman Collins made a motion to approve same night minutes for Items #38, #39 & #40, at tonight's meeting).

(Special Item#2 – Councilman Collins motion – The MINUTES for items #38, #39 & #40)

MOTION: Collins
SECOND: Conrad
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland and Chairman Lowery
Ware was absent

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Lowery recognized the following person who spoke from the audience:

Walter Broady, III, 4256 Ledbetter Cove, Mphs, TN 38109

ADJOURNED MEETING AT 5:25 P.M.

.....
Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

Attest:

C H A I R M A N

Deputy Comptroller/Council Records